

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-14 are pending in the present application. Claims 1-14 have been amended. Claims 1 and 8 are independent claims. The Examiner is respectfully requested to reconsider the outstanding rejections in view of the amendments and the following remarks.

Removal of Means-Plus-Function Language

Applicants have amended apparatus claims 1-7 to remove the means-plus-function language in order to disavow any intent to invoke the provisions of 35 U.S.C. § 112, 6th paragraph.

Claim for Priority

It is gratefully acknowledged that the Examiner has recognized Applicants' claim for foreign priority.

Drawings

It is gratefully acknowledged that the Examiner has accepted the Formal Drawings filed on August 22, 2006 for examination purposes.

Acknowledgment of Information Disclosure Statement

The Examiner has acknowledged the Information Disclosure Statement (IDS) filed on August 22, 2006; and November 24, 2008. An initialed copy of each PTO/SB/08 has been received from the Examiner. No further action is necessary at this time.

Rejection Under 35 U.S.C. § 112

Claims 1-14 stand rejected under 35 U.S.C. § 112, 2nd paragraph, as being indefinite. Particularly, the Examiner asserts the conditional term "if" in various claims renders the claim

indefinite. Although Applicants disagree with this assertion, Applicants have replaced the “if” terminology with other language in an effort to expedite prosecution. Applicants respectfully submit that the current claim language is clear, and satisfies the definiteness requirement of § 112, 2nd paragraph. Therefore, the Examiner is respectfully requested to withdraw this rejection.

Rejection Under 35 U.S.C. § 102

Claims 1-14 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Kita et al. (WO 2004/100538; publication date: November 18, 2004). This rejection is respectfully traversed.

Kita has a prior art date under 35 U.S.C. § 102(a) of November 18, 2004. The present application claims priority to JP 2004-065228 having a filing date of March 9, 2004. With this Amendment, Applicants have submitted a sworn translation of priority document JP 2004-065228 showing that the pending claims are entitled to priority back to March 9, 2004. Therefore, Kita cannot be applied as a prior art reference against the claims of the present application. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 102(a) be withdrawn.

Conclusion

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider the outstanding rejections and issue a Notice of Allowance in the present application.

Should the Examiner believe that any outstanding matters remain in the present application, the Examiner is respectfully requested to contact Jason W. Rhodes (Reg. No. 47,305) at the telephone number of the undersigned to discuss the present application in an effort to expedite prosecution.

Application No. 10/590,198
Amendment dated December 16, 2009
Reply to Office Action of September 16, 2009

Docket No.: 0925-0233PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: December 16, 2009

Respectfully submitted,

By  #47,305

for Michael K. Mutter

Registration No.: 29,680

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant